

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

Criminal Misc. Appl. No. 136 of 2001
(Old No. 6376 /1999)

Dr. Hridesh Deepali
S/o Sri S.L. Agarwal
R/o Dharnaulla, Almora
District –Almora Applicant

Versus

1. District Judge/ Session Judge, Almora
2. Munsif Magistrate, Almora
3. Sri Ravindra Pant
S/o Sri Amba Dutt Pant
R/o Gokul Niwas, Dhunga Dhara
District –Almora Respondents

Sri Dinesh Chauhan, learned counsel for the applicant

Sri Mohan Chandra, Pandey-Advocate and Sri R.K. Joshi-Advocate for the respondent No. 3

Hon'ble J.C.S.Rawat, J.

The present petition has been directed against the judgment and order dated 27.07.1999 passed by Session Judge, Almora and the order dated 03.09.1997 passed by Munsif Magistrate, Almora by which the prayer of the applicant in Criminal Case No. 560 of 1993 in which the application of the petitioner was rejected by the court for summoning certain document.

Brief facts for the disposal of this petition are that a complaint was filed u/s 500 I.P.C. and the Magistrate took cognizance u/s 500 I.P.C. immediately after appearing before the court below the accused moved application that certain documents may be summoned. Learned Sessions Judge rejected this application and observed that the applicant will have the opportunity at the time of defence.

Feeling aggrieved by the said order, revision petition was preferred which was dismissed as being interlocutory order and was barred under Section 397 (2) of Cr. P.C.

Feeling aggrieved by the said order, the present petition has been preferred before this court.

I am completely in agreement with the findings recorded by the learned Magistrate. The accused has no right at the initial stage to summon the document in his defense before the court below. The document can only be summoned at the time of the defense. The accused can move the application at the stage of defence.

In view of the forgoing discussion, I am of the view that the petition is devoid of merit and is liable to be dismissed and the same is accordingly dismissed.

(J.C.S. RAWAT,J.)

02nd March, 2006

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